

REFERENCE TITLE: **contact lens dispensing opticians**

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2805

Introduced by
Representatives Meza, Aguirre A

AN ACT

CHANGING THE DESIGNATION OF TITLE 32, CHAPTER 15.1, ARIZONA REVISED STATUTES, TO "DISPENSING OPTICIANS AND CONTACT LENS DISPENSING OPTICIANS"; AMENDING SECTIONS 32-1671, 32-1672, 32-1673, 32-1681, 32-1682, 32-1684.01, 32-1685, 32-1686, 32-1687, 32-1696 AND 41-3012.06, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 15.1, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1692, RELATING TO THE BOARD OF DISPENSING OPTICIANS AND CONTACT LENS DISPENSING OPTICIANS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Heading change

3 The chapter heading of title 32, chapter 15.1, Arizona Revised
4 Statutes, is changed from "DISPENSING OPTICIANS" to "DISPENSING OPTICIANS AND
5 CONTACT LENS DISPENSING OPTICIANS".

6 Sec. 2. Section 32-1671, Arizona Revised Statutes, is amended to read:
7 32-1671. Definitions

8 In this chapter, unless the context otherwise requires:

9 1. "Board" means the state board of dispensing opticians AND CONTACT
10 LENS DISPENSING OPTICIANS.

11 2. "CONTACT LENS DISPENSING OPTICIAN" MEANS A PERSON WHO IS LICENSED
12 PURSUANT TO THIS CHAPTER WHO, IN ADDITION TO PERFORMING THE ACTIVITIES OF A
13 DISPENSING OPTICIAN LICENSED PURSUANT TO THIS CHAPTER, DISPENSES CONTACT
14 LENSES TO THE INTENDED WEARER PURSUANT TO A PRESCRIPTION ORDER FROM A
15 LICENSED PHYSICIAN OR OPTOMETRIST AND WHO, IN ACCORDANCE WITH THE
16 PRESCRIPTION ORDER, INTERPRETS, MEASURES, ADAPTS, FITS OR ADJUSTS CONTACT
17 LENSES FOR THE AID OR CORRECTION OF VISUAL OR OCULAR ANOMALIES OF THE HUMAN
18 EYE OR WHO DUPLICATES, REPLACES OR REPRODUCES CONTACT LENSES WITHOUT A
19 PRESCRIPTION IF THERE IS NO CHANGE IN REFRACTIVE VALUE.

20 ~~2.~~ 3. "Direct supervision" means the provision of direction and
21 control through inspection and evaluation of work by consultation or
22 instruction as needed, provided that at least one licensed dispensing
23 optician works at each optical establishment on a full-time basis.

24 ~~3.~~ 4. "Dispensing optician" means any person, ~~except as provided in~~
25 ~~section 32-1691, WHO IS LICENSED PURSUANT TO THIS CHAPTER AND~~ who dispenses
26 lenses, ~~contact lenses,~~ frames, artificial eyes, optical devices,
27 appurtenances thereto or parts thereof to the intended wearer on written
28 prescription from a duly licensed physician or optometrist, and in accordance
29 with such prescription interprets, measures, adapts, fits or adjusts the same
30 for the aid or correction of visual or ocular anomalies of the human eye or
31 who duplicates, replaces, reproduces or repeats the same without prescription
32 when there is no change in refractive value, ~~provided that contact lenses~~
33 ~~shall never be dispensed without a written contact lense prescription being~~
34 ~~on file in any optical establishment, office of an optometrist or office of a~~
35 ~~physician or verbal confirmation of that written prescription. The~~
36 ~~dispensing optician shall advise the intended wearer at the time that contact~~
37 ~~lenses are delivered to return to the prescribing physician or optometrist~~
38 ~~for evaluation and follow-up care.~~

39 ~~4.~~ 5. "Optical establishment" means a physical location in which
40 lenses, contact lenses, frames, artificial eyes, optical devices,
41 appurtenances thereto or parts thereof are dispensed to the intended wearer
42 on written prescription from a physician WHO IS licensed pursuant to chapter
43 13 or 17 of this title or an optometrist WHO IS licensed pursuant to chapter
44 16 of this title.

45 ~~5.~~ 6. "Person" means a natural person.

1 Sec. 3. Section 32-1672, Arizona Revised Statutes, is amended to read:

2 32-1672. Board; members; qualifications; terms; removal;
3 immunity

4 A. The state board of dispensing opticians **AND CONTACT LENS DISPENSING**
5 **OPTICIANS** is established consisting of seven members appointed by the
6 governor. Five members of the board shall be licensees in good standing
7 under this chapter. Two members of the board shall be public members.

8 B. Each member shall serve for a term of five years expiring on the
9 first day in January of the appropriate year. A member shall not serve for
10 more than two complete consecutive terms.

11 C. The board shall elect from among its membership a chairman and ~~such~~
12 other officers as it deems necessary, who shall hold their offices at the
13 pleasure of the board.

14 D. Members of the board are eligible to receive compensation in the
15 amount of fifty dollars for each day of actual service in the business of the
16 board.

17 E. The governor may remove a board member from office if the governor
18 determines that the member is guilty of malfeasance, misfeasance or
19 dishonorable conduct.

20 F. The board, the secretary-treasurer of the board and permanent and
21 temporary board personnel are immune from civil liability for any act the
22 board, its officers and board personnel perform in good faith and in
23 furtherance of this chapter.

24 Sec. 4. Section 32-1673, Arizona Revised Statutes, is amended to read:

25 32-1673. Powers and duties of the board

26 A. The board shall adopt rules to administer and enforce this
27 chapter. Rules adopted pursuant to this section shall include rules to
28 specify the lawful scope of the practice of dispensing opticians **AND CONTACT**
29 **LENS DISPENSING OPTICIANS** and necessary evidence that may support a charge of
30 substandard care rendered by a dispensing optician, **A CONTACT LENS DISPENSING**
31 **OPTICIAN** or an optical establishment.

32 B. The board may:

33 1. Hire or contract with investigators to assist in the investigation
34 of violations of this chapter.

35 2. Hire employees and contract with other state agencies as necessary
36 to carry out this chapter.

37 3. In connection with board hearings and investigations, issue
38 subpoenas for the attendance of witnesses and the production of books,
39 records, documents and other necessary evidence.

40 Sec. 5. Section 32-1681, Arizona Revised Statutes, is amended to read:

41 32-1681. Licensure; issuance

42 A. A person shall not practice as a dispensing optician **OR A CONTACT**
43 **LENS DISPENSING OPTICIAN** in this state without a valid license issued
44 pursuant to this chapter.

1 B. The board shall issue a license to any person who complies with ~~the~~
2 ~~provisions of~~ this chapter and board rules. All licenses expire at the end
3 of each calendar year but do not expire while an application for renewal is
4 pending before the board.

5 Sec. 6. Section 32-1682, Arizona Revised Statutes, is amended to read:
6 32-1682. Applications for licensure: original and renewal:
7 examination

8 A. An applicant for licensure shall submit a verified application to
9 the board on a form prescribed by the board. The application shall contain
10 information the board determines is necessary to assist the board in
11 determining the applicant's ability to meet the requirements of this chapter
12 and board rules AND SHALL SPECIFY IF THE APPLICATION IS FOR LICENSURE AS A
13 DISPENSING OPTICIAN OR A CONTACT LENS DISPENSING OPTICIAN.

14 B. A person who wishes to renew a license shall submit a verified
15 renewal application to the board each year on a form prescribed by the board.
16 The renewal application shall contain information the board determines is
17 necessary to assist the board in determining that the applicant is not in
18 default of or in violation of this chapter or board rules and that the
19 licensee continues to meet the requirements of this chapter.

20 C. The board may require from all applicants any additional
21 information that in its judgment is necessary to assist the board in
22 determining whether the applicant is entitled to initial or continued
23 licensure.

24 D. To assist it in determining if an applicant has acquired the
25 minimum basic skills required ~~for optical dispensing~~ TO BE LICENSED PURSUANT
26 TO THIS CHAPTER, the board shall require a written and practical examination
27 of all applicants for an initial license AS EITHER A DISPENSING OPTICIAN OR A
28 CONTACT LENS DISPENSING OPTICIAN. THE BOARD SHALL REQUIRE A SEPARATE
29 EXAMINATION FOR APPLICANTS BASED ON WHETHER THEY ARE APPLYING FOR A LICENSE
30 AS A DISPENSING OPTICIAN OR A CONTACT LENS DISPENSING OPTICIAN. This
31 ~~requirement does~~ THE EXAMINATION REQUIREMENTS OF THIS SUBSECTION DO not apply
32 to applicants who qualify pursuant to section 32-1683, paragraph 5,
33 subdivision (a). The board may prescribe other reasonable rules relating to
34 the examination of applicants as it determines necessary for the performance
35 of its duties. The board may accept the results of a written or practical
36 examination prepared by a nationally recognized body as determined by the
37 board in lieu of those portions of an examination prepared by the board if
38 they are at least substantially equivalent to those prepared by the board.
39 The board may keep all procedures relating to the administration of the
40 examination and the answer keys confidential.

41 Sec. 7. Section 32-1684.01, Arizona Revised Statutes, is amended to
42 read:

43 32-1684.01. Optical establishment license: qualifications

44 A. Any person, corporation, company, partnership, firm, association or
45 society that wishes to operate an optical establishment shall submit a

1 verified application to the board on a form prescribed by the board. The
2 application shall include the application fee and the following information:

- 3 1. The location of the proposed optical establishment.
- 4 2. The proposed business hours of the optical establishment.
- 5 ~~3. The names and license numbers of the licensed dispensing opticians~~
6 ~~who work at the optical establishment.~~

7 3. A STATEMENT INDICATING WHETHER THE OPTICAL ESTABLISHMENT PROPOSES
8 TO DISPENSE CONTACT LENSES.

9 4. THE NAMES AND LICENSE NUMBERS OF THE LICENSED DISPENSING OPTICIANS
10 WHO WORK AT THE OPTICAL ESTABLISHMENT AND, IF THE OPTICAL ESTABLISHMENT
11 PROPOSES TO DISPENSE CONTACT LENSES, THE NAME AND LICENSE NUMBERS OF THE
12 LICENSED CONTACT LENS DISPENSING OPTICIANS WHO WORK AT THE OPTICAL
13 ESTABLISHMENT.

14 B. An applicant for a license under this section shall provide
15 evidence to the board's satisfaction that at least one licensed dispensing
16 optician works at the optical establishment on a full-time basis. IF THE
17 OPTICAL ESTABLISHMENT PROPOSES TO DISPENSE CONTACT LENSES, THE APPLICANT MUST
18 PROVIDE EVIDENCE TO THE BOARD'S SATISFACTION THAT AT LEAST ONE LICENSED
19 CONTACT LENS DISPENSING OPTICIAN WORKS AT THE OPTICAL ESTABLISHMENT ON A
20 FULL-TIME BASIS.

21 C. Within thirty days after the receipt of an original application or
22 renewal application and the application fee, the board shall investigate the
23 qualifications of the applicant. If the applicant meets the qualifications
24 of this chapter and board rules, the board shall approve the application and
25 issue a license. If the application is disapproved, the board shall notify
26 the applicant as provided in section 32-1694, subsection A.

27 D. To renew a license a licensee shall submit a VERIFIED renewal
28 application to the board on or before June 30 of each year on a form
29 prescribed by the board. The application shall include the applicable
30 renewal fee and information the board deems necessary for it to determine
31 that the licensee continues to meet the requirements of this chapter and
32 board rules.

33 E. A licensee that submits a renewal application and applicable fee
34 after June 30 but before July 31 shall pay a late fee pursuant to section
35 32-1685 in addition to the renewal fee.

36 F. A license expires if a licensee does not submit a renewal
37 application and renewal fee on or before July 31 pursuant to subsection E of
38 this section. After that date the applicant shall apply for licensure as an
39 original applicant.

40 Sec. 8. Section 32-1685, Arizona Revised Statutes, is amended to read:
41 32-1685. Fees

42 A. The board shall establish nonrefundable fees that do not exceed the
43 following:

- 44 1. Filing an application for a ~~dispensing optician~~ license, two
45 hundred dollars.

2. Issuing an original ~~dispensing-optician~~ license, two hundred dollars.

3. Renewing a ~~dispensing-optician~~ license, two hundred dollars.

4. Late renewal of a ~~dispensing-optician~~ license, two hundred dollars.

5. Name change and issuance of a duplicate ~~dispensing-optician~~ license, one hundred dollars.

6. Reinstatement of a ~~dispensing-optician~~ license, two hundred dollars.

7. Filing an application for an optical establishment license, two hundred dollars.

8. Issuing an original optical establishment license, two hundred dollars.

9. Renewing an optical establishment license, two hundred dollars.

10. Late renewal of an optical establishment license, two hundred dollars.

11. Name or location change and issuance of a duplicate optical establishment license, one hundred dollars.

B. The board may charge additional fees for services that the board deems are necessary to carry out this chapter and board rules. These fees shall not exceed the costs of rendering the services.

Sec. 9. Section 32-1686, Arizona Revised Statutes, is amended to read:

32-1686. Board of dispensing opticians and contact lens dispensing opticians fund

A. Before the end of each month, pursuant to sections 35-146 and 35-147, the board shall deposit ten per cent of all monies received by the board in the state general fund and deposit the remaining ninety per cent in the board of dispensing opticians AND CONTACT LENS DISPENSING OPTICIANS fund.

B. Monies deposited in the board of dispensing opticians AND CONTACT LENS DISPENSING OPTICIANS fund are subject to section 35-143.01.

Sec. 10. Section 32-1687, Arizona Revised Statutes, is amended to read:

32-1687. Continuing education

A. All dispensing opticians AND CONTACT LENS DISPENSING OPTICIANS WHO ARE licensed under this chapter shall satisfy a continuing education requirement in accordance with board rules.

B. The board shall prescribe by rule the form and content of continuing education ~~for dispensing opticians licensed under this chapter~~ that is designed to educate the licensee in current developments, skills and procedures. ~~Opticians~~ A LICENSEE may satisfy this continuing education requirement by home study courses or attending seminars and are not required to join a professional association ~~of dispensing opticians~~ in this state in order to fulfill the requirement. The rules shall establish the number of hours of continuing education required within a three-year period in an amount not to exceed twelve hours.

1 Sec. 11. Title 32, chapter 15.1, article 3, Arizona Revised Statutes,
2 is amended by adding section 32-1692, to read:

3 32-1692. Contact lenses; notification to wearer

4 A CONTACT LENS DISPENSING OPTICIAN MUST ADVISE THE INTENDED WEARER AT
5 THE TIME THAT CONTACT LENSES ARE DELIVERED TO RETURN TO THE PRESCRIBING
6 PHYSICIAN OR OPTOMETRIST FOR EVALUATION AND FOLLOW-UP CARE.

7 Sec. 12. Section 32-1696, Arizona Revised Statutes, is amended to
8 read:

9 32-1696. Unlawful acts; grounds for disciplinary action;
10 classification

11 A. It is unlawful to:

12 1. Obtain or attempt to obtain a license by fraud or misrepresentation
13 or by knowingly taking advantage of a mistake of another person or agency.

14 2. Hire, procure or induce a person to act as a licensed dispensing
15 optician OR A LICENSED CONTACT LENS DISPENSING OPTICIAN if the person is not
16 licensed to practice ~~as a dispensing optician~~ PURSUANT TO THIS CHAPTER.

17 3. Give, pay or receive, or offer to give, pay or receive, directly or
18 indirectly, any gift, premium, discount, rebate or remuneration to or from
19 any physician or optometrist in return for the referral of patients or
20 customers.

21 4. Engage in false or misleading representations by knowingly and with
22 the intent to sell to the public real or personal property or services, or to
23 induce the public to acquire an interest in real or personal property or
24 services, make and publish an advertisement, either printed or by public
25 proclamation, or otherwise, containing any false, fraudulent, deceptive or
26 misleading representations in respect to such property or services or the
27 manner of sale or distribution.

28 5. Provide any examination or treatment of the eye or advertise eye
29 examinations without the disclaimer "by independent doctor of optometry", "by
30 independent doctor of ophthalmology" or "by independent physician licensed
31 pursuant to title 32, chapter 13 or 17, Arizona Revised Statutes".

32 6. Use any means to measure the refractive value of the human eye,
33 except nonrefractive, nondiagnostic devices, such as a keratometer,
34 ophthalmometer or other instrumentation that is required to fit a contact
35 lens to an intended wearer.

36 7. Make use of any advertising statement of a character tending to
37 indicate to the public superiority of any particular system or type of
38 eyesight examination or treatment over that provided by other licensed ocular
39 practitioners.

40 8. Fraudulently, dishonestly, illegally or unprofessionally conduct
41 the practice of optical OR CONTACT LENS dispensing or engage in any conduct
42 that would tend to do harm to the visual health of the public.

1 9. DISPENSING CONTACT LENSES WITHOUT A WRITTEN CONTACT LENS
2 PRESCRIPTION BEING ON FILE IN ANY OPTICAL ESTABLISHMENT, OFFICE OF AN
3 OPTOMETRIST OR OFFICE OF A PHYSICIAN OR WITHOUT VERBAL CONFIRMATION OF THAT
4 WRITTEN PRESCRIPTION.

5 B. A person who violates this chapter or a board rule is subject to
6 disciplinary action as prescribed in this article.

7 C. A person or licensee who violates subsection A, paragraph 1, 4, 5,
8 ~~or~~ 8 OR 9 is guilty of a class 1 misdemeanor. A person or licensee who
9 violates subsection A, paragraph 2, 3, 6 or 7 is guilty of a class 2
10 misdemeanor.

11 Sec. 13. Section 41-3012.06, Arizona Revised Statutes, is amended to
12 read:

13 41-3012.06. State board of dispensing opticians and contact
14 lens dispensing opticians; termination July 1,
15 2012

16 A. The state board of dispensing opticians AND CONTACT LENS DISPENSING
17 OPTICIANS terminates on July 1, 2012.

18 B. Title 32, chapter 15.1 is repealed on January 1, 2013.